



Appeal Decision

Site visit made on 20 September 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 October 2022

Appeal Ref: APP/P2365/W/22/3299072

64 Square Lane, Burscough L40 7RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Susan Rolfe (Exceptional Care Limited) against the decision of West Lancashire Borough Council.
 - The application Ref 2022/0243/FUL, dated 3 March 2022, was refused by notice dated 28 April 2022
 - The development proposed is the change of use of a dwelling (C3a) to a childrens care home(C2) for up to four children or young people with up to two full-time resident carers working on a rota basis, sleeping overnight
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development and date of application from the appeal form and decision notice, which appear to be more accurate than the application form. Furthermore, as the appellant name differs from the applicant name, I have confirmed this position with the main parties.

Main Issue

3. The main issue is the effect of the proposed development on highway safety.

Reasons

4. The site comprises a seven bedroom detached dwelling with front paved area in Square Lane, at a bend in the road. While largely residential, Square Lane is a main thoroughfare that, at the time of my visit, was well used by traffic. The property would operate as a care home for up to four children with a rota of two resident carers, including overnight, and a third carer during the day.
5. I have had regard to the Travel Plan, which outlines the movements likely to be associated with the proposal as 6-8 trips per day by all modes of transport. I acknowledge that, as a 7 bedroom dwelling, the current use of the property has the potential to generate a similar level of trips. However, those connected with the proposal would be heavily concentrated to certain time periods each day, such as the arrival and departure of staff, including staff changeover. At these points there would be a much greater intensity of movement when compared with the residential use of the property.
6. The main parties agree that the three car parking spaces proposed would be in line with the requirements of Policy IF2 of the West Lancashire Local Plan

2012-2027 Development Plan Document (the DPD). In addition, the Travel Plan outlines that car-sharing, cycling, walking and use of public transport would be promoted, given the nearby footpath network and bus and train stations and proposed cycle spaces. It further states that on-road parking would be discouraged, with available parking for staff and visitors at the head office.

7. Nevertheless, there is no guarantee that these transport choices would always be utilised. While Travel Plans may be controlled by condition, it would be difficult to enforce or monitor the day to day transport choices of staff members which may not always be in line with the options promoted by the appellant. As such, a condition requiring compliance with these elements of the Travel Plan would not be appropriate. Furthermore, I have no information before me on the availability of staff parking at the head office, which I note to be some distance from the site such that it would be unlikely to be a convenient or attractive parking option.
8. As such, given that more than three staff members would be present during changeover, it remains a reasonable possibility that more than three vehicles could be present at the site. Such a level of parking could not be accommodated within the driveway. While temporary, this would nevertheless result in regular periods of on-street parking which, for reasons of convenience, would likely be as close as possible to the site. In addition, it would result in vehicle movements to and from Square Lane, and manoeuvring within the highway, to facilitate this changeover.
9. Although Square Lane is not heavily parked, due to its narrow nature such on-street parking, particularly when combined with concentrated vehicular movements, would create a significant obstruction, even if for a limited time. It would unduly hinder pedestrian and vehicular flow within a main and well-used road, and further reduce visibility for highway users at a bend in the road where visibility is already limited, thereby unduly increasing collision risk and creating highway safety concerns.
10. This would be exacerbated by visitors attending the site by vehicle. Reference is made to visits from social workers, Ofsted inspectors and family members, with tutoring likely to be carried out online. While infrequent, such visits could create increased periods of on-street parking which would further impact on the safe and efficient operation of the surrounding highway network for both vehicles and pedestrians by presenting a physical and visual obstruction and impeding traffic flow.
11. For the reasons given I find that the development would have a significant adverse effect on highway safety. Nevertheless, it would comply with the parking standards of Policy IF2 of the DPD and, while the Council states that it would conflict with Policy GN3, particularly with regards to incorporating a suitable and safe access and road layout design, I have no substantive information before me that this would be the case. As such, I find no conflict with the policies cited in the Council's reasons for refusal.
12. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts the determination must be in accordance with the plan unless material considerations indicate otherwise. The National Planning Policy Framework states at paragraph 111

that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. For the reasons outlined above, the proposal would have an unacceptable impact on highway safety. This conflict with the Framework is a material consideration of sufficient weight to indicate that, on the facts of this particular case, determination should be made otherwise than in accordance with the cited policies of the development plan.

Other Matters

13. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination and to advance equality of opportunity. As the proposal would provide a day care centre for children and young people, it would relate to persons who share a relevant protected characteristic. It does not follow from the PSED that the appeal should succeed, rather that the benefit to children and young people should be taken into account in the planning balance.
14. I have given considerable weight to this identified benefit. However, it remains that such a use should not unduly interfere with the safe and efficient operation of the highway network. As such, I do not consider that the identified benefit would outweigh the significant harm outlined above.
15. The appellant has made reference to other planning permissions¹ which have been granted subject to a condition requiring compliance with a Travel Plan, and to a number of appeal decisions² that have concluded that movements associated with similar uses were akin to a family dwelling. However, I have limited information before me on the nature of each these schemes or, where appropriate, the details of the associated Travel Plans. I therefore have limited information on the comparability of these schemes to the proposal, such that no weight can be attached to this. In any event, each proposal should be assessed on its own site specific circumstances.

Conclusion

16. For the reasons given, the appeal should be dismissed.

C Rafferty

INSPECTOR

¹ 2021/0113/ARM; 2021/1066/CON; 2020/0170/CON

² APP/E2205/X/16/3161037; APP/P1045/X/20/3263178